

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Forestry and Wildlife  
Honolulu, HI, 96813

November 10, 2011

Chairperson and Members  
Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

Land Board Members:

**SUBJECT: REQUEST FOR APPROVAL OF INCIDENTAL TAKE LICENSE AND HABITAT CONSERVATION PLAN FOR KAWAIOLOA WIND POWER, AT KAWAIOLOA IN THE NORTHERN PORTION OF THE ISLAND OF O'AHU, HAWAI'I**

**SUMMARY:**

Submitted for your approval is the Incidental Take License (ITL) and the Habitat Conservation Plan (HCP) for Kawaihoa Wind Power, at Kawaihoa, O'ahu, Hawai'i. The purpose of the HCP is to provide for avoidance, minimization, mitigation, and monitoring of potential incidental take of six federally listed endangered species, the Hawaiian stilt or ae'o (*Himantopus mexicanus knudseni*), Hawaiian coot or 'alae ke'oke'o (*Fulica alai*), Hawaiian duck or koloa maoli (*Anas wyvilliana*), Hawaiian moorhen or 'alae 'ula (*Gallinula chloropus sandvicensis*), Newell's shearwater or 'a'o (*Puffinus auricularis newelli*), and Hawaiian hoary bat or 'ope'ape'a (*Lasiurus cinereus semotus*) and one state listed endangered species, the Hawaiian short-eared owl or pueo (*Asio flammeus sandwichensis*) (hereinafter referred to as the covered species). The HCP also outlines measures to ensure net recovery benefit to the covered species.

**BACKGROUND:**

Kawaihoa Wind Power LLC proposes to construct and operate a new 70-megawatt (MW), 30-turbine commercial wind energy generation facility at Kawaihoa in the northern portion of the Island of O'ahu, Hawai'i. The proposed project, known as Kawaihoa Wind Power, is situated within an approximately 4,200-acre (1,700 ha) parcel of privately owned land that is zoned agricultural. Kawaihoa Wind Power will supply wind-generated electricity to the Hawaiian Electric Company (HECO).

Kawaihoa Wind Power will consist of the following: 30 wind turbine generators (WTGs), 4.0 mi of overhead and 7.2 mi of underground collector lines, one electrical substation, an operations and maintenance (O&M) building, a laydown area, a possible battery energy storage system (BESS), two communication towers, two point of interconnection (POI) facilities, up to two permanent unguyed meteorological (met) towers, up to four temporary guyed met towers will be

also be erected for varying lengths of time prior to and during construction to gather meteorological data and for power-curve testing, improvements to 8.2 mi of existing roads, and an addition of 4.3 mi of unpaved access, roadways to connect the new WTGs to other project components, and possible installation, operation, and maintenance of up to four microwave dish antennae on, two existing Hawaiian Telcom facilities near the summit of Mt. Ka'ala.

The requested incidental take levels are as follows:

Common Name	Scientific Name	Level of Take	Requested Authorization		Location
			5-year limit	20-year limit	
Newell's Shearwater 'a'o	<i>Puffinus auricularis newelli</i>	Tier 1	3 adults/ immatures and 2 chicks/eggs	3 adults/ immatures and 2 chicks/eggs	TMK 2-22-007-008
		Tier 2	6 adults/ immatures and 3 chicks/eggs	6 adults/ immatures and 3 chicks/eggs	
Hawaiian Duck koloa maoli	<i>Anas wyvilliana</i>	Tier 1	4 adults/ immatures and 4 ducklings	4 adults/ immatures and 4 ducklings	
		Tier 2	6 adults/ immatures and 6 ducklings	6 adults/ immatures and 6 ducklings	
Hawaiian Stilt ae'o	<i>Himantopus mexicanus knudseni</i>	Tier 1	6 adults/ immatures and 3 fledglings	8 adults/ immatures and 4 fledglings	
		Tier 2	8 adults/ immatures and 4 fledglings	12 adults/ immatures and 6 fledglings	
Hawaiian Coot 'alae ke'oke'o	<i>Fulica alai</i>	Tier 1	6 adults/ immatures and 3 fledglings	8 adults/ immatures and 4 fledglings	
		Tier 2	8 adults/ immatures and 4 fledglings	12 adults/ immatures and 6 fledglings	
Hawaiian Moorhen alae 'ula	<i>Gallinula chloropus sandvicensis</i>	Tier 1 Take by capture from trapping	6 adults/ immatures and 3 fledglings	8 adults/ immatures and 4 fledglings  50 individuals	
		Tier 2 Take by capture from	8 adults/ immatures and 4 fledglings	12 adults/ immatures and 6 fledglings  50 individuals	

		trapping			
Hawaiian Short-Eared Owl pueo	<i>Asio flammeus sandwichensis</i>	Tier 1	4 adults/ immatures and 4 owlets	4 adults/ immatures and 4 owlets	
		Tier 2	6 adults/ immatures and 6 owlets	6 adults/ immatures and 6 owlets	
Hawaiian Hoary Bat 'ope'ape'a	<i>Lasiurus cinereus semotus</i>	Tier 1	16 adults/ immatures and 8 juveniles	16 adults/ immatures and 8 juveniles	
		Tier 2	24 adults/ immatures and 12 juveniles	32 adults/ immatures and 16 juveniles	
		Tier 3	32 adults/ immatures and 16 juveniles	48 adults/ immatures and 24 juveniles	

To address the potential of incidental take of the covered species, the following mitigation measures are proposed:

Species	Proposed Mitigation by Measured Take Level	
	Tier 1	Tier 2 or Above
<b>Sea-birds</b>	Development and testing of self-resetting cat trap, efficacy testing and implementation at a Newell's shearwater colony on Kaua'i.	Contribution to a restoration fund for predator control, social attraction and translocation of Newell's shearwaters to Kaho'olawe.
<b>Water-birds</b>	Predator control, fencing, and vegetation maintenance at 'Uko'a Pond or other site for five years plus MOA between First Wind and Kamehameha Schools for long term commitment to management of pond for waterbirds. Subsequent mitigation efforts to meet Tier 1 requested take as required.	Additional mitigation efforts at 'Uko'a Pond or at additional wetlands.
<b>Hawaiian short-</b>	Upfront contribution of \$12,500 for research and rehabilitation and up to a	Additional funding of \$6,250 for research and rehabilitation and up to a maximum of \$12,500 to

<b>leaved owl</b>	maximum of \$25,000 to implement management strategies if/as they becomes available.	implement management strategies.
<b>Hawaiian hoary bat</b>	Restoration of wetland or forest habitat to increase foraging capacity and provide additional roost trees. Research to evaluate the efficacy of wetland or forest mitigation.	Tier 2 and Tier 3: Additional restoration of wetland or forest habitat to increase foraging capacity and provide additional roost trees.

The HCP also allows for adaptive management. Adaptive management is defined as a formal, structured approach to dealing with uncertainty in natural resources management, using the experience of management and the results of research as an on-going feedback loop for continuous improvement. Adaptive approaches to management recognize that the answers to all management questions are not known and that the information necessary to formulate answers is often unavailable. Adaptive management also includes, by definition, a commitment to change management practices when determined appropriate.

The HCP outlines detailed monitoring and reporting protocols to account for injury or mortality to the covered species, as well as to ensure avoidance, minimization, and mitigation measures are being accomplished and goals and objectives are being met.

The Division released the draft HCP for 60-day public comment period in the August 8, 2011, Office of Environmental Quality Control (OEQC) Environmental Notice. On September 21, 2011, the Division conducted a public hearing on O'ahu to receive public comments. During the comment period, the Division received one formal comment, which was from the Office of Hawaiian Affairs (OHA). OHA pointed out a minor discrepancy in the text, which the applicant and the Division addressed.

At the October 21, 2011, Endangered Species Recovery Committee (ESRC) meeting, the ESRC recommended the Board approve the ITL and HCP.

#### HRS CHAPTER 343

Related to the activities under the HCP, and pursuant to Hawai'i Revised Statutes Chapter 343, the Division published a Final Environmental Assessment with a Finding of No Significant Impact in the October 8, 2011, OEQC Environmental Notice.

#### RECOMMENDATION:

The Department recommends that the Board:

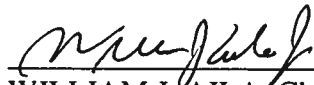
1. Approve the Incidental Take License and the Habitat Conservation Plan for Kawaiiloa Wind Power, at Kawaiiloa, O'ahu, Hawai'i by the required two-thirds vote of the authorized membership.
2. Authorize the Chairperson of the Board of Land and Natural Resources to issue the Incidental Take License.

Respectfully submitted,



Paul J. Conry, Administrator  
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL:



WILLIAM J. AILA, Chairperson  
Board of Land and Natural Resources

Attachment: Habitat Conservation Plan

Attachment: Incidental Take License

Attachment: Endangered Species Recovery Committee Recommendations

State of Hawai'i  
Department of Land and Natural Resources  
Division of Forestry and Wildlife  
1151 Punchbowl Street, Room 325  
Honolulu, Hawai'i 96813

Incidental Take License Number: ITL-14  
Date of Issue: \_\_\_\_\_  
Valid Until: 20 years from date of issue

### INCIDENTAL TAKE LICENSE

To accompany:

#### **"Kawailoa Wind Power Habitat Conservation Plan"**

The Board of Land and Natural Resources hereby grants permission under the authority of Hawaii Revised Statutes §§ 195D-2, 195D-4(g), 195D-21 and all other applicable laws to:

#### **First Wind Kawailoa Wind Power, LLC**

For take, if such taking is incidental to and not the purpose of the carrying out of an otherwise lawful activity, of the following species:

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			5-year limit	20-year limit	
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		Tier 2	6 adults/ immatures and 3 chicks/eggs	6 adults/ immatures and 3 chicks/eggs	
Hawaiian Duck koloa maoli	<i>Anas wyvilliana</i>	Tier 1	4 adults/ immatures and 4 ducklings	4 adults/ immatures and 4 ducklings	
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Hawaiian Short-Eared Owl pueo	<i>Asio flammeus sandwichensis</i>	Tier 1	4 adults/ immatures and 4 owlets	4 adults/ immatures and 4 owlets	
		Tier 2	6 adults/ immatures and 6 owlets	6 adults/ immatures and 6 owlets	
Hawaiian Hoary Bat 'ope'ape'a	<i>Lasiurus cinereus semotus</i>	Tier 1	16 adults/ immatures and 8 juveniles	16 adults/ immatures and 8 juveniles	
		Tier 2	24 adults/ immatures and 12 juveniles	32 adults/ immatures and 16 juveniles	
		Tier 3	32 adults/ immatures and 16 juveniles	48 adults/ immatures and 24 juveniles	

## I. GENERAL CONDITIONS

1. This license only authorizes incidental take of the covered species by the licensee on the lands owned or otherwise controlled by Kawaihoa Wind Power, LLC, on the island of Oahu, Hawai'i at the time this license is issued pursuant to the "Kawaihoa Wind Power Habitat Conservation Plan" dated October, 2011 (hereafter "HCP").

2. This license is valid only if Kawaihoa Wind Power, LLC abides by the terms and conditions of the HCP and ITL for the duration of the permit.
3. This license is valid for species protected by federal law only if accompanied by valid federal authorization.
4. This license shall become valid upon completion of the following:
  - i. A legal representative of Kawaihoa Wind Power, LLC has acknowledged understanding and agreement to abide by its conditions by signing two copies of this license.
  - ii. Both copies of the signed license must be returned to the Division of Forestry and Wildlife. Upon approval by the Chairperson, a copy of the license will be returned to the applicant.
5. The Board may suspend or revoke this license if the HCP is suspended or revoked. The Board may also suspend or revoke this license in accordance with applicable laws and regulations in force during the term of the license.

## **II. SPECIAL CONDITIONS**

1. The allowable incidental take authorized by this license for the covered species includes observed, unobserved, direct and indirect take as defined in the HCP.
2. The estimation of incidental take for the covered species will be calculated according to adjustments made to the observed direct take according to methods detailed in the HCP, including but not limited to adjustments to include unobserved and indirect take.
3. DLNR will be notified within 3 days of any mortalities, injuries, or disease of the covered species observed on the property. Injured individuals or carcasses will be handled according to guidelines in the HCP.



By: William J. Aila

Date 10/28/11

William J. Aila, Chairperson and Member  
Board of Land and Natural Resources

The undersigned has read, understands, and hereby agrees to abide by the General Conditions and the Special Conditions stipulated in this license.

Kawailoa Wind Power, LLC

By: \_\_\_\_\_

Date \_\_\_\_\_

Its: \_\_\_\_\_

Kawailoa Wind Power, LLC 's notarized signature is attached and made a part of this document.

Cc: DOFAW

DOCARE

USFWS Pacific Islands Office, Honolulu

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**  
DIVISION OF FORESTRY AND WILDLIFE  
1151 PUNCHBOWL STREET, ROOM 325  
HONOLULU, HAWAII 96813

WILLIAM J. AILA, JR.  
INTERIM CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI  
FIRST DEPUTY

WILLIAM M. TAM  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING

FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAIHOLELAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

November 10, 2011

TO: Honorable Chairperson and Members  
Board of Land and Natural Resources

FROM: Endangered Species Recovery Committee (ESRC)

William J. Aila, Department of Land and Natural Resources (DLNR)  
Loyal Meyerhoff, United States Fish and Wildlife Service (FWS)  
Gordon Tribble, United States Geological Survey (USGS)  
Cliff Morden, University of Hawaii Environmental Center  
Patrick Hart, Appointed Member  
John Harrison, Appointed Member

SUBJECT: Recommendation of Approval of the Incidental Take License and the Habitat  
Conservation Plan for Kawaihoa Wind Power, O'ahu, Hawai'i

The Endangered Species Recovery Committee recommended approval of the Incidental Take License and the Habitat Conservation Plan for Kawaihoa Wind Power, O'ahu, Hawai'i at the October 21, 2011 meeting.

Prepared and Submitted by:

  
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Scott Fretz, DLNR ESRC Designee